

Chesapeake Bay Exception CBE-12-044: 132 Nottinghamshire - Adams

Staff report for the December 14, 2011 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Woody Crawford

Land Owner: James Adams

Location: 132 Nottinghamshire

Parcel: Lot 30, Section 12, Ford's Colony Subdivision

Parcel Identification: 3233100030

Lot Size: 0.43 acres

RPA Area on Lot: 0.35 acres or 81.4% of the lot (wetlands plus RPA), 0.26 acres or 60.4% of the lot (RPA only)

Watershed: Powhatan Creek (HUC Code JL31)

Proposed Activity: Retaining walls, patio, and walkway installation

Proposed Impacts

Impervious Area: 530 square feet (approximate)

RPA Encroachment: 530 square feet to the landward 50 foot RPA Buffer

Brief Summary and Description of Activities

Mr. Woody Crawford, agent for Mr. and Mrs. James Adams, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of three retaining walls, a paver patio, and a future gravel walkway at 132 Nottinghamshire, in the Ford's Colony Subdivision. This case relates to two previous cases CBE-11-134, which was heard before the Chesapeake Bay Board, and CBE-11-126 which was administratively processed. The lot was platted between 1990 and 2004 and an RPA was determined to exist after the 2004 revisions to the Chesapeake Bay Preservation Ordinance. The proposed improvements are within the landward 50 foot RPA buffer and do not qualify for an administrative exception and must accordingly be heard by the Chesapeake Bay Board as stipulated under the Chesapeake Bay Ordinance Section 23-7 (c)(2).

The proposed improvements will be located within the landward 50' RPA buffer in areas directly adjacent to the existing residence. Two of the proposed retaining walls are to be constructed along the west side of the home while one retaining wall and the proposed gravel path will be installed along the east side.

A mitigation plan has been submitted to Staff to address impacts from the home construction (*CBE-11-126*), backyard clearing (*CBE-11-134*), and the installation of the improvements detailed in this case. If the previous exception request identified as CBE-11-134 is approved as proposed, the mitigation provided within that case will sufficiently address the impacts in the present case. If the previous exception request is denied the applicant should be required to provide a revised mitigation plan to address the impacts within the present case.

Staff Recommendations

The issue before the Board is the installation of the three retaining walls, paver patio, and path with 530 square feet of impervious area within the landward RPA buffer. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the criteria outlined in Section 23-14 (c) of the Ordinance. There are five review criteria within this section of the ordinance.

If the Board should choose to approve this application, regardless of other requirements imposed by the Board, staff recommends the incorporation of the following conditions into the approval:

1. The applicant must obtain all other necessary local permits as required for the project.
2. The mitigation plan requirement is contingent on approval of case CBE-11-134. The mitigation plan provided under CBE-11-134 shall be implemented to address proposed impacts under CBE-12-044 upon approval of the previous request.
3. This exception request approval shall become null and void if construction has not begun by December 14, 2012 or all improvements including the required mitigation plantings are not completed by that expiration date.
4. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

Background

Based on staff review of County records, the lot was recorded following the adoption of the Chesapeake Bay Preservation Ordinance and the house is currently under construction. As the proposed accessory structures are located within the RPA buffer, they cannot be administratively reviewed and therefore in accordance with section 23-14 of the Ordinance, an exception request must be considered by the Chesapeake Bay Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the retaining walls, paver patio, and walkway.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application* and a required mitigation plan which displays the features of the proposal along with a mitigation plan for native plantings.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-12-044 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-12-044 are included for the Board's use and decision.

Staff Report prepared by:

Michael D. Woolson
Senior Watershed Planner

CONCUR:

Scott J. Thomas
Secretary to the Board

Attachments: Sensitive Area Activity Application
Mitigation Plan with CBE-11-134